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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,929	10/22/2003	Scott Campbell	PA2587US	1610
22830	7590	11/13/2007		
CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303			EXAMINER THOMASSON, MEAGAN J	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 11/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,929

Applicant(s)

CAMPBELL, SCOTT

Examiner

Meagan Thomasson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/22/07, 3/3/07, 8/24/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 24, 2007 has been entered.

Response to Amendment

No amendments have been made to the claims. Claims 1-30 are pending in this application.

The affidavit under 37 CFR 1.132 filed April 26, 2007 is insufficient to overcome the rejection of claims 1-30 based upon the video game *Project Gotham Racing* in view of the video game *RoadBlasters*, as set forth in the last Office action because: applicant has submitted evidence and arguments regarding the claimed limitation of "displaying the graphical path data as a visual string of path markers", specifically arguing that the cited screen shots of *RoadBlasters* do not disclose said graphical path comprising a visual string of path markers, and instead the path markers represent fuel spheres. While not explicitly stated in the previous office action, the current examiner believes there is a misinterpretation of what the previous examiner had intended to

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indicate as the path markers. It is believed that the previous examiner had intended to indicate the shaded block regions lining either side of the road that visually distinguish the path to be taken by the player, i.e. the road, from the off-road area as the teaching of "a visual string of equidistant path markers in a racing game in order to keep a player moving along a desired path during the race" (Office Action, P. 3). In an alternative interpretation, the lane marker graphics that contrast with the road graphics serve as a visual string of equidistant path markers in a racing game in order to keep a player moving along a desired path during the race. The current examiner believes the previous examiner had not intended to indicate the fuel spheres as a visual string of path markers but instead intended to indicate the shaded block regions lining either side of the road. Thus, the affidavit is insufficient to overcome the rejection set forth in the previous office action.

However, the previous grounds of rejection of claims 1-30 as being unpatentable over *Project Gotham Racing* in view of *Roadblasters* have been vacated. In light of U.S. Patent No. 6,652,376 B1 to Yoshida et al. in view of U.S. Patent No. 5,269,987 to Mott et al., a new grounds of rejection of claims 1-30 is hereby made. See the rejection below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. (US 6,652,376 B1) in view of Mott et al. (US 5,269,687).

Regarding claims 1,2,12,19-22,24,25 and 30, Yoshida discloses a method and electronic-readable medium having embodied thereon a program for displaying a graphical path in a video game, comprising retrieving graphical path data associated with a previous run, displaying the graphical path data as a visual string of path markers, and determining a color for a displayed path marker of the visual string of path markers based upon a comparison of a player's current speed and a reference speed at a given point. Specifically, Yoshida discloses retrieving graphical path data associated with a previous run in that the video game system displays a reference path travel line established by a previous run (col. 11, lines 37-41), wherein the reference path may be displayed as a visual string of path markers (Fig. 9, 10,14,15,19). A color is determined for a displayed path marker based upon a player's current travel speed relative to the reference, i.e. ideal, travel speed that was established on a previous run (col. 10, lines 20- 42). For instance, if it is determined that the player's current travel speed exceeds

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the ideal travel speed, the graphical path markers change colors (e.g. turn red) in order to indicate to the player whether they should apply the brakes to decrease their current travel speed (col. 12, lines 4-33).

Yoshida does not specifically disclose determining a color for a displayed path marker of the visual string of path markers based upon an elapsed time of a current video game session and an elapsed time associated with the displayed path marker from the previous run. However, it is well known in racing-type video games to provide a player with a visual indication of a current lap time in comparison with a previous lap time, as disclosed by Mott (Fig. 5, Current Lap **192**, Previous Best Lap **194**, Lap Time **162**; col. 5, lines 60-67). Additionally, Mott discloses the use of a ghost car **150** (Fig. 3,4), i.e. graphical path data, which visually displays to the player a complete recording of a lap previously run by the user (col. 5, lines 8-37).

It would have been obvious to one of ordinary skill in the art to combine the color changing graphical path markers of Yoshida with the current and previous lap time indicators of Mott as these are both means of visually providing information to a player during a video game play session. Further, Mott specifically discloses providing instruction to a player for parameters other than time in col. 5, lines 26-34, which teaches providing indicators for speed similar to the invention disclosed by Yoshida. To provide a visual indication of current lap time compared to a previous lap time is known in a racing-type video game system; providing an indication of a game parameter in the form of color changing path markers is also known in a racing-type video game system. Thus, all of the combined elements were known in the prior art and one skilled in the art

could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Regarding claims 3-7,26 Mott discloses the ability to determine a character state associated with a player character, including whether the character state is an off-track, on-track, or crashed state (col. 7, lines 14-24). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a visual indicator for any particular character state that may be associated with a player character as Mott teaches several examples of said character states able to be determined by the game.

Regarding claims 8-11,14,15 Mott discloses the ability to display a visual, graphical indicator for previous lap times in Fig. 4, including a champion best lap time ("Beat" 164), previous run lap time ("Last" 164), and player best lap time (Fig. 5, "Previous Best Lap" 194). Therefore, it would have been obvious to display any previous run, including a worst time and an average time, as Mott discloses the ability to measure multiple player lap times.

Regarding claim 13,23,29 Mott discloses storing the current graphical path data as "best time" run graphical path data if a total elapsed time of the current video game session is less than a total elapsed time associated with a previous "best time" run, wherein a new best time obtained by a player is stored and displayed as the ghost car path (col. 5, lines 35-37).

Regarding claim 16, Yoshida discloses the visual string of path markers are generated at substantially equal-distance from each other (Fig. 9, 10,14,15,19).

Regarding claims 17,18,27,28 Yoshida discloses retrieving the path data associated with a previous run, i.e. the reference data, from a data cache (i.e. database) on a memory (i.e. ROM), in col. 8, lines 31-38.

Response to Arguments

Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent prior art includes:

- Banville (US 3,717,345), a race game having graphical path markers, i.e. lamps, along a race track for providing an indication of a player position.
- Moncrief et al. (US 5,354,202, US 5,577,913), Copperman et al. (US 5,366,376, US 5,660,547), all disclose driving simulations related to that disclosed in Mott.
- Nakamura (US 6,007,423), a virtual course display method and game machine using the same.
- Ando et al. (US 6,200,138 B1), drawn to a game display method having moving direction indicating means and drive simulation apparatus.
- Matsui et al. (US 6,203,426 B1), drawn to character movement control in a race game.

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- Hightower (US 6,488,505 B1, US 6,755,654 B2), drawn to a system and method of vehicle competition with enhanced ghosting features.
- Baba (US 6,962,527 B2), drawn to a gaming system having a graphic indicator of a current time relative to a previous time.
- Freifeld (US 7,072,792 B2), drawn to a racecourse gaming system having a visual string of path markers (i.e. checkpoints).
- Kake et al. (US 7,101,284 B2), drawn to an object display system in a virtual world wherein object's display position is determined by player race data.
- Jen et al. (US 7,214,133 B2), drawn to a method and apparatus for retrieving recorded races for use in a game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson
November 7, 2007



XUAN M. THAI
SUPERVISORY PATENT EXAMINER